

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Markco Penn, :
: Petitioner(s), : Case Number: 1:09cv395
vs. : Chief Judge Susan J. Dlott
Warden Chillicothe Correctional Institution, :
: Respondent(s). :

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Michael R. Merz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on July 21, 2010 a Report and Recommendation (Doc. 14). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 16).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, a review of the docket indicates that petitioner has neither sought nor received permission of the Court of Appeals to file the petition. Therefore, the petition in this case is **DISMISSED** without prejudice for lack of subject matter. Since reasonable jurists would

not disagree with this conclusion, the petitioner will be denied any requested certificate of appealability and the Court will certify that any appeal would not be taken in objective good faith.

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court